

Docket No.: 100506.00028
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Attorney Docket No. 100506.00028
Nadia MASTROIANNI et al. Confirmation No.: 9518
Application No.: 10/587,523 Art Unit: 1652
Filed: March 7, 2007 Examiner: R. E. Prouty
For: PHOTOPROTEINS WITH ENHANCED BIOLUMINESCENCE AND ASSAYS
USING THE SAME

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

November 5, 2009

Sir:

This paper is submitted in response to the Restriction Requirement dated August 6, 2009. The due date for response is extended for two months, by payment herein of the appropriate government fees.

In response to the Restriction Requirement, Applicants hereby provisionally elect Group VI, claims 1-5, drawn to a clytin photoprotein variant having a G₁₄₂→C substitution (SEQ ID NO:7), with traverse. Applicants reserve the right to file one or more divisional applications to the non-elected subject matter.

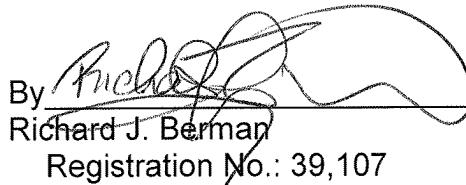
Applicants' traversal of the Restriction Requirement is on the following grounds. In contrast to assertions in the Restriction Requirement, Applicants respectfully submit that

the inventions of Groups I-XLV relate to a single general inventive concept under PCT Rule 13.1, as they contain a special technical feature not disclosed in the cited reference of Lambolez et al. (PCT Publication No. WO 03/006497, hereinafter "Lambolez"). Applicants submit that the instantly claimed clytin photoprotein variants are characterized by enhanced bioluminescence (higher intensity of light emission). Applicants note that although Lambolez discloses thermostability and duration of luminescence for clytin photoprotein variants, Lambolez fails to disclose the intensity of luminescence for these variants.

Accordingly, Applicants respectfully request withdrawal of the Restriction Requirement, and examination of all of the claims on the merits.

Please charge any fee deficiency or credit any overpayment with respect to this paper to Deposit Account Number 01-2300, referencing Attorney Docket Number 100506.00028.

Respectfully submitted,

By 
Richard J. Berman
Registration No.: 39,107

Customer No. 04372
AREN'T FOX LLP
1050 Connecticut Ave. NW
Washington, DC 20036
(202) 857-6000
(202) 857-6395 (Fax)